

# REEVES & GRADDY

Attorneys at Law  
110 North Court St.  
P.O. Box 88  
Versailles, Ky. 40383  
(606) 873-1340  
Fax No. (606) 873-1303

\*Robert E. Reeves  
W. Henry Graddy IV  
A. B. Chandler III  
Louise Prewitt Lagrew  
Todd Evan Leatherman  
Elizabeth R. Bennett  
\*Robert G. Friedman

October 9, 1995

\*Lexington Office  
First National Building  
167 West Main St., Suite 300  
Lexington, Ky. 40507  
(606) 252-8539  
(606) 253-0645

Mr. Morris Flexner  
U.S. Environmental Protection Agency  
Region IV  
345 Courtland Street NE  
Atlanta, GA 30365

RE: Kentucky's "Nondegradation Policy Implementation  
Methodology", 401 KAR 5:030.

Dear Mr. Flexner:

After mailing the recent letter that detailed the objections of Kentucky Resources Council and the Sierra Club's Cumberland Chapter to the state's proposed nondegradation policy, I realized that we had failed to cite an important passage from the revised "Water Quality Standards Handbook" that is applicable to Kentucky's regulation. Chapter 4, Page 7 states that:

"All parameters do not need to be better quality than the state's ambient criteria for the water to be deemed a high quality water. EPA believes that it is best to apply antidegradation on a parameter by parameter basis. Otherwise, there is potential for a large number of waters not to receive antidegradation protection, which is important to attaining the goals of the Clean Water Act to restore and maintain the integrity of the Nation's waters. However, if a State has an official interpretation that differs from this interpretation, EPA will evaluate the State interpretation for conformance with the statutory and regulatory intent of the antidegradation policy."

Clearly, a state policy, such as 401 KAR 5:030, that proposes to offer antidegradation protection to less than 3% of the rivers and streams is inconsistent with EPA's stated guidelines.

Mr. Morris Flexner  
October 9, 1995  
Page Two

Respectfully submitted,

  
Hank Graddy

cc: Tom Fitzgerald  
John Hankinson